IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.24620 of 1997

Dated: 08-03-2007

Between:

Mohammed A. Fazullah, s/o M.A.Rawoof,
aged about 62 years,
r/o Etcherla Post and Mandal,
Srikakulam District.

... Petitioner

and

1. The Mandal Revenue Officer,
   Etcherla Mandal,
   Etcherla,
   Srikakulam District and 2 others.

... Respondents

ORDER:

Questioning the orders of the third respondent vide Proceedings No.BCW5/4160/1989, dated 31-07-1996 and consequential order of the first respondent in Rc.No.107/97, dated 29-06-1997, the present writ petition has been filed seeking to quash the same.

2. Facts, in brief, are: Though, in the year 1968-69, after detailed

enquiries petitioner was granted lease patta for the land measuring Ac.5-00 cents in Survey No.141-3 of Etcherla village, subsequently it was converted into 'D' patta. In the year 1970, the above patta was cancelled for the purpose of construction of police quarters and in the alternative petitioner was granted land during 1971 measuring Ac.1-50 cents in Survey No.4 and another plot measuring Ac.1-50 cents in Survey No.123 of the same village Etcherla. Instead of granting assignment for the remaining Ac.2-00 cents, the Revenue Divisional Officer, Srikakulam vide proceedings in D.Dis.No.1353/71, dated 22-05-1973 cancelled the 'D' patta issued in favour of petitioner in respect of Ac.3-00 of land on the ground that he is landed rich. Assailing the said order, petitioner filed an appeal before the District Revenue Officer, Srikakulam who after considering the facts and circumstances and upon perusing the entire record held that the petitioner is not landed rich and allowed his appeal vide Proceedings in D.Dis.7008/73, dated 04-12-1973. It is stated that while the matter stood thus in the year 1986 when there was need for establishing another police station and quarters the land in Survey No.126 recognized as suitable land, the Mandal Revenue Officer initiated action for resumption of the above land on the ground that the assigned land is required for the public purpose and the assignee is landed rich person and ultimately taken the land by his proceedings in Rc.No.62/86, dated

09-06-1986. Against the said orders, petitioner filed W.P.No.7317 of 1986 and this Court disposed of the said writ petition on 31-01-1989 directing the petitioner to file an appeal before the District Collector within two months. However, the appeal preferred by the petitioner was dismissed by the second respondent vide Proceedings No.5149/96, dated 17-07-1996 holding that he is landed rich and the

land is required for public purpose. Against the said order, the petitioner filed revision before the third respondent and the third respondent dismissed the revision vide proceedings No.BCW5/4160/89, dated 31-07-1996. Pursuant thereto,
the first respondent vide Rc.No.107/97, dated 15-03-1997 issued a notice to the petitioner to show-cause why 'D' patta for Survey No.123 measuring Ac.1-50 cents should not be cancelled. It is stated that even though he gave explanation on 28-04-1997, the first respondent without proper consideration of his reply, ordered resumption of the land vide Rc.No.107/97, 29-06-1997.

3. A detailed counter affidavit is filed wherein it is stated that the petitioner's father is a businessman and landed rich person and he filed a declaration under the Land Ceiling Act before the Land Reforms Tribunal, Srikakulam and the Land Reforms Tribunal held that the petitioner's father is having an excess holding in an extent of Ac.7-84 cents. In the light of the said excess holding, according to the counter affidavit, the very assignment made in favour of the petitioner is bad and hence, it necessitated the authorities to cancel the said assignment.

4. Heard learned counsel for the parties.

5. Evidently, the assignment made earlier was cancelled by the then Revenue Divisional Officer, Srikakulam on 22-05-1973 vide proceedings in D.Dis.No.1353/71 and on an appeal, the appellate authority i.e. the District Revenue Officer, Srikakulam by his order, dated 04-12-1973 set aside the said order holding that the petitioner is entitled for assignment of DKT patta. In fact, the appellate authority at the relevant point of time has discussed this aspect as to whether the petitioner is entitled for grant of assignment or not. Further, in the said

order, the appellate authority i.e. the District Revenue Officer has discussed the status of the petitioner and gave a categorical finding that the petitioner is a landless poor person and that though his father is a rich person, as he is living separately he is entitled for assignment of DKT patta.

6. In the light of the said finding given by a competent authority, which has become final, this Court is of the view that the authorities, who passed the orders impugned, are precluded from again going into the said aspect and giving a finding that the petitioner is not entitled for assignment.

Thus, the proceedings of the authorities dated 09-06-1986, 17-07-1996,

31-07-1996, 15-03-1997 and 29-06-1997 are liable to be quashed.

7. In the result, the writ petition is allowed and the proceedings of the third respondent bearing case No.BCW5/4160/1989, dated 31-07-1996 and consequential order of the first respondent in Rc.No.107/97, dated

29-06-1997 are quashed. No costs.

JUSTICE GOPALAKRISHNA TAMADA

Dt.08-03-2007
GLV